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**UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/153,290 09/15/98 PRUITT

M 26681

PM82/0922  
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EXAMINER

PETRAVICK, M

ART UNIT

PAPER NUMBER

3671

DATE MAILED:

5  
09/22/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/153,290**

Applicant(s)  
**Pruitt, Graber, Case, O'Halloran**

Examiner  
**Meredith Petravick**

Group Art Unit  
**3671**



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-34 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-34 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3671

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble to claim 1 states that the invention is the subcombination of “a crop harvesting header,” while the preamble to claim 13 states that the invention is the combination of “a harvesting machine” while giving exactly the same limitations in the following claims. These claims are unclear whether the invention applies to the combination or subcombination. If applying only to one or the other, a rejection under U.S.C. 101 double patenting will apply since the preamble of the claims 1 and 13 do not hold patentable weight.

Claims 3 and 15 recite the limitation "the series of cutters" in line 2. There is insufficient antecedent basis for this limitation in the claim. The limitation “a series of rotary cutters” is first found in claims 2 and 14, and claims 3 and 15 depend on claims 1 and 13.

Art Unit: 3671

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Scarnato et. al.

Scarnato et al. discloses a harvesting machine comprising rotary cutters (36, 37), a crop conveying element (26), and conditioning rolls (8, 11).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6 and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitt et al. in view of Scarnato et al.

Art Unit: 3671

Schmitt et al. discloses the claimed device including rotary cutters (32), impeller cages (46, 100, 112, 132), conditioning rolls (66), and a pair of outboard cutter sections (32a-b, 32i-j) but lacks a moveable conveying element that directs the crop flow to the nip in the conditioning rolls. Scarnato et al. discloses that it is known in the art to provide a conveying element (26) that is movable upwardly and rearwardly (column 2, lines 42-47) to direct the flow of crop material directly to the nip (25) of the conditioning rolls (column 5, lines 40-41). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the harvester of Schmitt et al. with the conveying element of Scarnato et al., in order to direct the flow of crop material directly to the nip formed by the conditioning rolls.

7. Claims 1-8, 10-20, 22-30, and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitt et al. in view of Shelbourne et al. and Scarnato et al.

Schmitt et al. discloses the claimed device except a moveable conveying roller to transfer the crops from the cutter bead to the nip in the conditioner rolls. Shelbourne et al. discloses that it is known in the art to provide a small conveying roller (14) to transfer crops from one assembly to another (column 3, line 65). Scarnato et al. discloses that it is known in the art to provide a moving conveying element in order to direct the flow of various crop materials to the nip of conditioning rollers (column 5, lines 40-41). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the harvester of Schmitt et al. with

Art Unit: 3671

the conveying roller of Shelbourne et al. that moves as taught in Scarnato et al. in order to direct the crop flow directly at the nip of the conditioner rolls.

8. Claims 9, 21, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitt et al. in view of Shelbourne et al. and Scarnato et al. as applied to claims 7, 19, and 25 above, and further in view of van der Lely .

The combination in paragraph 7 discloses the claimed device except for helical ribs extending along the roller to facilitate conveying material to the central discharge area. van der Lely discloses that it is known in the art to provide helical ribs (Fig. 5) with opposite inclinations around a central point on a conveyor that convey material to a discharge area. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the harvester of the combination in paragraph 7 with the helical ribs of van der Lely, in order to facilitate the conveying of crops to a central discharge area.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3671

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith Petravick whose telephone number is (703) 305-0047. The examiner can normally be reached on Monday - Thursday from 7 a.m. - 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached at (703) 308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305 -1113. The fax number for this Group is (703) 305-3597.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

mcp  
Sept. 16, 1999